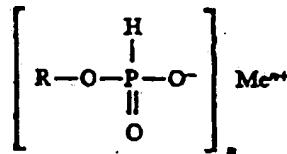


consisting of

(i) a monoester salt of a phosphorous acid of Formula (I):



wherein:

R is an alkyl radical having 2 to 4 carbon atoms,

Me is an alkali metal, alkaline earth, or aluminum atom, and

n is a whole number from 1 to 3 equal to the valence of Me; and

(ii) phosphorous acid or an alkali or alkali earth metal salt thereof; and

(b) from 0.01 to 0.1 parts by weight of a phthalocyanine compound.

wherein the composition does not include the fungicide mancozeb.

32. [twice amended] A fungicidal composition for enhancing turf quality

wherein the active material [which comprises] present in synergistic

fungicidally effective amounts consists essentially of [of an active

material comprising]:

(a) 1 part by weight of a first active agent selected from the group

consisting of phosphorous acid or an alkali or alkali earth metal salt

thereof; and

(b) from 0.01 to 0.1 parts by weight of a phthalocyanine compound.

REMARKS

Claims 1-8, 10-17, 20-35 and 37-38 are now presented. The reproduction of claims 10 and 32 above is presented to clearly present the changes in these claims that are made

by this amendment. A complete copy of all claims now presented in this application, in accordance with 37 CFR § 1.173(d) and MPEP § 1453, is attached hereto as Attachment A.

Claim 9 has been deleted, in accordance with 37 CFR § 1.173. Also, in this amendment claims 18, 19 and 36 have been deleted in view of the amendments made to the independent claims from which they depend.

In the office action dated July 26, 2005, the Examiner made the following decisions:

- (i) method claims 1-8 and 24-31 were allowed;
- (ii) composition claims 10 – 18, 20, 21, 23, and 32-38 were rejected under 35 U.S.C. § 103(a);
- (iii) method claim 22 was rejected under 35 U.S.C. § 103 (a);
- (iv) composition claim 19 was objected to as being dependent upon a rejected base claim, “but would be allowable if rewritten in dependent form including all of the limitations of the base claim and any intervening claims.”

The Rejection Based On Hoechst and Fenn et al

Applicant traverses the rejection under 35 U.S.C. § 103(a) because it is based on hindsight and fails to be based on the kind of affirmative teachings in the art that legally support a basis for a person of ordinary skill in the art to find an invention to be obvious. Based on the disclosure of the instant reissue application and patent, the examiner has chosen two disparate references, the only thing in common being that each refers to fungicidal treatment. There is nothing in the Hoechst reference to suggest that a phthalocyanine compound would be an active component with a fungicide as described in the Fenn et al reference.

Nevertheless, in order to facilitate early grant of the reissue patent, applicant amends the claims, in a manner suggested by the Examiner in the last office action.

The Examiner has indicated that claim 19 “would be allowable if rewritten in independent form including all of the limitations of the base claim [independent claim 10] and any intervening claims.” Claim 19 depends directly from independent claim 10, therefore there are no intervening claims involved. The only limitation in claim 19 not present in claim 10 is the linking term “consisting essentially of.” The linking term has now been incorporated in the independent composition claims 10 and 32. Therefore, all composition claims now presented contain the limitations found by the examiner to be allowable. As a result, applicant now believes all of the composition claims 10 – 18, 20, 21, 23, and 32-38 are in condition for allowance and such action is respectfully requested.

The Examiner has also rejected a single method claim, claim 22. There is no apparent reason why this claim is rejected, since it is narrower in scope than other method claims found allowable. It is therefore respectfully requested that the rejection of claim 22 be withdrawn.

CONCLUSION:

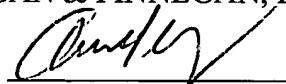
It is respectfully submitted that reissue claims 1-8, 10-17, 20-35 and 37-38 are fully supported and patentable and an early action finding allowance of these claims is respectfully solicited. The undersigned attorney invites the opportunity to discuss any matter with the examiner which can expedite the prosecution of this application.

Respectfully submitted,

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Dated: December 27, 2005

By:


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